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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
|-----------------|-------------|----------------------|---------------------|
| 09/139,865      | 08/25/98    | CAILLAT              | J 0315-000460       |

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| EXAMINER    |              |
|-------------|--------------|
| CAMPBELL, T |              |
| ART UNIT    | PAPER NUMBER |

3742

DATE MAILED: 03/01/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
**09/139,865**

Applicant(s)  
**Caillat**

Examiner  
**Thor Campbell**

Group Art Unit  
**3742**



☐ Responsive to communication(s) filed on \_\_\_\_\_.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-29 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-29 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-13, and 17-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Bass et al. (U.S. 5,741,120).

Bass discloses a capacity modulated compressor and method of modulation comprising a compression mechanism having a compression chamber and a movable member to vary the volume of the compression chamber, a power source, i.e. an electric motor, connected to the movable member to effect movement and subsequent compression of gas drawn in through suction inlet, a bidirectional valve, operated by pressurized fluid provided by said compression mechanism, positioned adjacent said suction inlet to cyclically allow and prevent flow of gas into said compression chamber, wherein cycle time and duration of said valve is varied in response to sensed conditions, a solenoid operated control valve to control the flow of said pressurized fluid, further including sensors to enable control of both cycle time of said valve and operating parameters of said electric motor to maximize the efficiency of said compressor.

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***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (U.S. 5,015,155) in view of Bass et al. (U.S. 5,741,120).

Brown discloses a reciprocating piston in cylinder compressor. Bass discloses the means and method of compressor capacity modulation as claimed except the compressor being of the reciprocating piston in cylinder type. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Brown to include the compressor capacity modulation of Bass in order to increase the efficiency of a piston type fluid compressor and since such piston type compressors are more common than scroll type compressors.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thor Campbell whose telephone number is (703) 306-9042. The examiner can normally be reached on Tuesday through Friday from 7:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg, can be reached on (703) 308-1327. The fax phone number for this Group is (703) 308-7763.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.



Teresa Walberg  
Supervisory Patent Examiner  
Group 3700